

**9.507 Solicitation provisions and contract clause.****9.507-1 Solicitation provisions.**

(a) As indicated in the general rules in 9.505, significant potential organizational conflicts of interest are normally resolved by imposing some restraint, appropriate to the nature of the conflict, upon the contractor's eligibility for future contracts or subcontracts. Therefore, affected solicitations shall contain a provision that—

(1) Invites offerors' attention to this subpart;

(2) States the nature of the potential conflict as seen by the contracting officer;

(3) States the nature of the proposed restraint upon future contractor activities; and

(4) Depending on the nature of the acquisition, states whether or not the terms of any proposed clause and the application of this subpart to the contract are subject to negotiation.

(b) The contracting officer shall insert the provision at 52.209-7, Organizational Conflicts of Interest Certificate—Marketing Consultants, in solicitations, other than sealed bids, if the contract amount is expected to exceed \$200,000.

(c) The contracting officer shall insert the provision at 52.209-8, Organizational Conflicts of Interest Certificate—Advisory and Assistance Services, in solicitations for advisory and assistance services if the contract is expected to exceed the simplified acquisition threshold.

(d) The provisions required by paragraphs (b) and (c) of this subsection shall not be used in solicitations for—

(1) Services excluded in subpart 37.2;

(2) Routine engineering and technical services (such as installation, operation or maintenance of systems, equipment, software components, or facilities);

(3) Routine legal, actuarial, auditing and accounting services;

(4) Training services; and

(5) Services rendered in connection with intelligence activities defined in section 3.4(e) of Executive Order 12333 or a comparable definitional section in

any successor order, or in connection with special access programs.

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**9.507-2 Contract clause.**

(a) If, as a condition of award, the contractor's eligibility for future prime contract or subcontract awards will be restricted or the contractor must agree to some other restraint, the solicitation shall contain a proposed clause that specifies both the nature and duration of the proposed restraint. The contracting officer shall include the clause in the contract, first negotiating the clause's final terms with the successful offeror, if it is appropriate to do so (see 9.508-1(d) of this subsection).

(b) The restraint imposed by a clause shall be limited to a fixed term of reasonable duration, sufficient to avoid the circumstance of unfair competitive advantage or potential bias. This period varies. It might end, for example, when the first production contract using the contractor's specifications or work statement is awarded, or it might extend through the entire life of a system for which the contractor has performed systems engineering and technical direction. In every case, the restriction shall specify termination by a specific date or upon the occurrence of an identifiable event.

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**9.508 Examples.**

The examples in paragraphs (a) through (i) following illustrate situations in which questions concerning organizational conflicts of interest may arise. They are not all inclusive, but are intended to help the contracting officer apply the general rules in 9.505 to individual contract situations.

(a) Company A agrees to provide systems engineering and technical direction for the Navy on the powerplant for a group of submarines (i.e., turbines, drive shafts, propellers, etc.). Company A should not be allowed to supply any powerplant components. Company A can, however, supply components of the submarine unrelated to the powerplant (e.g., fire control, navigation,